General Services Administration
Office of General Counsel
Washington, DC 20405

August 16, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Subject: Telephone Number Portability,
CC Docket No. 95-116, RM 8535.

Dear Mr. Caton:

Enclosed please find the original and eighteen copies of the General Services Administration's Comments for filing in the above-referenced proceeding.

Sincerely,

Jody B. Burton

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Assistant General Counsel
Personal Property Division

Enclosures

cc: International Transcription Service
Competitive Pricing Division (2 copies)
Wanda M. Harris (diskette)

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
Telephone Number Portability	)	CC Docket No.95-116
	)	RM 8535

COMMENTS OF THE GENERAL SERVICES ADMINISTRATION

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August 16, 1996

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Summary

GSA urges the Commission to establish rules whereby all costs directly related to the establishment and operation of number portability are pooled and administered for payment and recovery by independent, impartial entities. Indirect costs associated with technology upgrades that provide other carrier benefits should not be included in the compensation or recovery mechanism. GSA further recommends that the Commission allocate the recovery of these pooled costs among carriers according to their assignment of telephone numbers to end users. Carriers should be allowed to recover those assigned costs by folding them into their overall revenue requirements. Alternatively, carriers should be allowed to recover number portability costs through a charge per telephone number assessed on all end-users in areas where number portability is available.

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Telephone Number Portability	)	CC Docket No. 95-116 RM 8535

COMMENTS OF THE
GENERAL SERVICES ADMINISTRATION

The General Services Administration ("GSA"), on behalf of the Federal Executive Agencies, submits these Comments in response to the Commission's Further Notice of Proposed Rulemaking ("FNPRM"), FCC 96-286, released July 2, 1996. The FNPRM begins at paragraph 199 following the First Report and Order in this docket. It addresses the financing of the network modifications and operational costs required for service provider number portability.

I. Introduction

Pursuant to Section 111(a)(1) of the Federal Property and Administrative Services Act of 1949, as amended 40 U.S.C. 759(a)(1), GSA is vested with the responsibility to represent the customer interests of the Federal Executive Agencies ("FEAs") before Federal and State regulatory agencies.

Collectively, the FEAs are probably the largest user of telecommunications services in the nation, employing millions of telephone numbers across the country. As such, they

are vitally interested in the financing of number portability, the subject of these Comments. The nature of this interest and GSA's policy recommendations pertaining to this matter are set forth in these Comments.

II. The Commission Should Limit Its Prescription To Recovery Of Costs Directly Related to Number Portability.

In paragraph 208 of the FNPRM, the Commission tentatively concludes that there are three types of costs involved in providing long-term service provider portability: (1) costs incurred by the industry as a whole; (2) carrier-specific costs directly related to providing number portability; and (3) carrier-specific costs not directly related to number portability. In paragraph 209, the Commission tentatively concludes that the "competitively neutral" standard of Section 251(e)(2) of the Telecommunications Act of 1996 ("1996 Act") applies only to the first two of these cost classifications. Later, in paragraph 226, the Commission tentatively concludes that the costs of upgrades not directly related to number portability, such as the installation of Advanced Intelligent Network ("AIN") and Signaling System 7 ("SS7") technologies, should be borne by the individual carriers.

GSA agrees with the conclusions in paragraphs 208 and 226. The 1996 Act requires impartial number portability because it is a precondition for effective competition. The 1996 Act obligates all telecommunications carriers to bear the cost of establishing number administration and portability in a competitively neutral manner. In GSA's view, this cost should be defined narrowly. That is, it should be limited to costs that would not be incurred but for the requirement to provide number portability.

If there are other valid reasons for a carrier to incur a given cost, such as improving productivity or offering additional services, the cost should not be classified as related to number portability. This standard should apply even when the upgraded technology is required as part of the infrastructure underlying number portability.

Any alternative definition of number portability costs would not be competitively neutral. By definition, infrastructure upgrades enhance a carrier's competitiveness. If a carrier is allowed to classify infrastructure upgrades as number portability costs, it could use the Commission's cost recovery mechanism as a vehicle to spread the cost of its competitive enhancements to other participants --including competitors -- in the industry. Such a procedure would also unfairly penalize the most advanced carriers that have already installed upgraded technologies and therefore could not justify the recovery of such costs in the future.

In paragraph 229, the Commission seeks comment on whether it should specify a particular recovery mechanism for the third category of costs, that is, carrier-specific costs not directly related to number portability. GSA strongly urges the Commission to refrain from specifying any particular procedure for recovering these costs. First of all, such an effort would embroil the Commission in the complex definitional issue of what constitutes a cost indirectly related to number portability. More importantly, recovery of costs related to technology upgrades goes well beyond the narrow question of number portability cost. The complex issues currently being addressed in Docket No. 96-150 relating to accounting safeguards and in Docket No. 96-112 relating to the treatment of common costs for open video systems also concern the distribution of responsibility for technology upgrades. To

address the recovery of such upgrades in this proceeding diverts attention from the primary focus of this docket: number portability.

III. All Number Portability Costs Should Be Pooled For Compensation By Impartial Administrators.

The Commission proposes to maintain the distinction between category (1) industry costs and category (2) carrier-specific costs for purposes of identification, administration and recovery. Industry costs would be recovered from all telecommunications carriers in proportion to each carrier's total gross telecommunications revenues minus charges paid to other carriers.[1] The Commission's discussion of the second category, carrier-specific costs, is somewhat confusing. In paragraph 215, which is in the industry cost section of the FNPRM, the Commission seeks comment on the recovery of carrier-incurred costs specific to the deployment and usage of number portability databases. The Commission offers no recommended plan for this recovery and asks for suggestions as to whether such costs should be recovered from end users or from other carriers, and if the latter, from which carriers.[2]

Then, in paragraph 221, the Commission introduces another category of carrier-specific costs: those related to purchasing switch software necessary to implement long-term number portability solutions. The Commission inquires whether the carriers, presumably incumbent Local Exchange Carriers ("LECs"), should be required to absorb

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[1]FNPRM, ¶ 213.

[2]Id. ¶ 215.

these costs, or whether they should be pooled and spread across all carriers according to an allocator such as revenues or lines.

GSA does not believe that any distinction should be made among these various categories of cost. At the present time, it is not possible to forecast which costs will be common to the industry and which will be borne by individual carriers. No doubt there will be some transfer of costs initially incurred by individual carriers to independent, non-carrier industry entities. Nor is it relevant to distinguish between the common database costs and those associated with individual LECs' deployment of the capability to provide number portability. Finally, GSA does not believe the distinctions between recurring and non-recurring costs, or between fixed and usage-based costs are particularly relevant. All of these costs are necessary to achieve a common goal, which is to implement a competitively neutral long-term solution to the number portability problem.

For these reasons, GSA recommends that all costs directly incurred by any party to implement and operate the long-term number portability solution be pooled into a common fund. Initially, the fund would be administered by the North American Numbering Plan Administrator. Later, as regional or state databases come into operation, it may be appropriate for the independent administrators of those databases to assume responsibility for the cost pools.

GSA recommends that the administrator(s) be responsible for the approval of all applications by carriers or other entities for compensation for costs directly incurred to provide number portability. This process would act as a safeguard against spurious claims by carriers seeking to recover technology upgrade costs not discretely related to number portability. The administrator(s) would also negotiate and oversee the amortization of the

carriers' initial start-up costs, thus protecting consumers from overpayment of the capital costs associated with implementing number portability.

IV. Number Portability Costs Should Be Recovered From Carriers Based on Numbers Assigned To End Users.

In paragraph 213, the Commission tentatively concludes that the costs of shared databases should be allocated among carriers in proportion to each carrier's total gross telecommunications revenues minus charges paid to other carriers.

GSA submits that this proposal fails the test of competitive neutrality required by Section 251(e)(2). An allocation according to telecommunications revenues can apply only to regulated carriers. Revenues of unregulated entities are beyond the Commission's reach. Yet those unregulated entities often compete directly with services of regulated carriers.

Centrex service is an example. It is subject to regulation and would therefore presumably be included in the Commission's allocation key for recovering number portability costs.[3] Centrex systems compete directly with PBXs, which are usually owned or leased by the end-user and would therefore be exempt from the proposed charge. The Commission's revenue-based charging mechanism would tilt the competitive playing field against Centrex in favor of PBX systems.

Similarly, private telecommunications networks are owned or operated by end-users. They may have no discrete "revenue." Yet such networks compete directly with regulated

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[3]Many state commissions have deregulated centrex loops, and it is not clear whether revenues from such deregulated services would be included in the Commission's proposed allocation key.

common carrier services. Those regulated services would be unfairly disadvantaged by the Commission's proposed charging mechanism.

In GSA's view, the Commission's proposal to base number portability cost recovery on gross revenue is also discriminatory because it would distribute the costs of number portability with no regard to the benefit received. Regulated revenues are derived from a panoply of services, many of which have nothing to do with the availability of telephone numbers. Most notably, private line services use no telephone numbers at all. Interexchange services use telephone numbers, but carriers devoted exclusively to providing those services derive no benefit whatever from local service provider portability.[4]

Quite obviously, the benefit of number portability is directly proportional to the use of telephone numbers. Moreover, the cost of portability, to the extent that it is variable at all, is variable according to the number of telephone numbers maintained in the regional or state databases. The key to the distribution of number portability cost recovery should therefore be telephone numbers.

An arguable problem with the use of telephone numbers as an allocation key is that telephone numbers are assigned only by LECs and Commercial Mobile Radio Service ("CMRS") providers, but not by interexchange carriers or competitive access providers that do not serve end-use customers. Section 352(e)(2) of the 1996 Act refers to "all telecommunications carriers," and the Commission inquires whether it has the authority to

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[4]The recent Report and Order prescribed only service provider portability. See Appendix B, Amendments to the C.F.R. §52.1(k). It is possible that location and service portability, if provided in future, could benefit interexchange carriers.

exclude certain groups of carriers from the recovery mechanism.[5] The use of a number charge would effectively exclude carriers not involved in the assignment of telephone numbers.

GSA suggests that the reference to "all telecommunications carriers" should be read in the broader context of the entirety of Section 251. That section assigns three sets of obligations: to all telecommunications carriers, to all local exchange carriers, and to incumbent local exchange carriers. Number portability is found among the obligations of all local exchange carriers.[6] Its objective is to enhance the development of competition among local exchange service providers. As noted, it has little value (at least as service provider portability) to interexchange carriers. For this reason, GSA does not believe there is any inconsistency with the 1996 Act if the Commission establishes a recovery mechanism based on telephone numbers that effectively excludes telecommunications carriers that do not assign numbers.[7]

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[5]FNPRM, ¶ 209.

[6]See §251(b)(2) of the 1996 Act.

[7]The 1996 Act assigns the obligation to provide number portability only to LECs. In its Report and Order, the Commission has extended that obligation to CMRS providers (¶ 155). A number-based charge should therefore apply to both LECs and CMRS providers.

V. Carriers Should Be Allowed To Recover Number Portability Costs Either From General Revenues Or From A Recurring Per-Number Charge On All End Users In Areas Where Number Portability Is Available.

The final issue is whether the Commission should only prescribe an allocation key for number portability cost recovery among carriers or whether it should also establish the mechanism by which those costs in turn are recovered from consumers.

The Commission itself appears ambivalent on this issue. In paragraph 209, the Commission reaches the tentative conclusion that Section 251(e)(2) does not address recovery of number portability costs from consumers, but only the allocation of such costs among carriers. Then, in paragraph 215, the Commission inquires whether incumbent LECs should be able to recover their portion of shared number portability costs from their end-users or from other carriers, and whether the Commission should prescribe the particular cost recovery mechanism.

GSA submits that, whether or not the Commission has the authority to prescribe an end-user charge, it should nevertheless establish some guidelines as to mechanism of cost recovery. If LECs are free to design cost recovery any way they see fit, they may be tempted to use that recovery for anticompetitive purposes. They might, for example, attempt to recover their assigned costs through an "exit fee" on customers transferring out of their systems.[8] More likely, they might seek to incorporate number portability costs into the interconnection fees they charge to competing LECs or into the access fees they charge interexchange carriers.

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[8]This "exit fee" approach appears so crassly anti-competitive as to be dismissed out of hand. However, it is routinely proposed by electric generating companies as a mechanism for recovering their costs of transitioning to competitive markets.

The only way to ensure the recovery of number portability costs in a competitively neutral fashion is to spread those costs over such a broad body of end-users that they do not significantly alter the competitive balance among services. Arguably, the simplest procedure for accomplishing this objective is to fold number portability costs into the overall revenue requirement of each carrier. The Commission's guideline would be a prohibition against assigning number portability costs to any particular service or class of customers.

An alternative would be to recover number portability costs directly from all end users in the form of a monthly charge for the use of each telephone number. The charge could be tied directly to telephone numbers, rather than lines or revenues. The number of telephone numbers per line varies. Private lines use no numbers whatsoever. At the other extreme are PBX trunks using Direct Inward Dial, where many numbers are served by a relatively few lines. As noted earlier, revenues are a poor allocator of cost, whether among carriers or among end users.

Aside from cost recovery, a telephone number charge would have another important benefit: it would convey a price signal to end-users that telephone numbers are a valuable and limited resource. Arguably, the availability of telephone numbers is infinite, but the price paid for expanding that availability is ever greater dialing complexity. The consuming public should be aware of that price, and a telephone number charge would be an appropriate mechanism for providing that awareness.

To be consistent with the principle of charging only where benefit is received, the number charge should be levied only where number portability is available. The extension of the charge would therefore conform to the schedule prescribed by the Commission in its First Report and Order.

GSA does not believe that the forgoing alternatives, absorption of number portability costs into the carrier's revenue requirement or an end-user charge on telephone numbers, are mutually exclusive. The Commission could allow each carrier the alternative of either cost recovery mechanism. Such an approach would be consistent with the flexibility that the Commission has adopted with respect to many other aspects of its implementation of the 1996 Act.

VI. Conclusion

As the agency vested with the responsibility for acquiring telecommunications services on a competitive basis for use of the Federal Executive Agencies, GSA urges the Commission to establish rules whereby all costs directly related to the establishment and operation of number portability are pooled and administered for payment and recovery by independent, impartial entities. Indirect costs associated with technology upgrades that provide other carrier benefits should not be included in the compensation or recovery mechanism. GSA further recommends that the Commission allocate the recovery of these pooled costs among carriers according to their assignment of telephone numbers to end users. Carriers should be allowed to recover those assigned costs by folding them into their overall revenue requirements. Alternatively, carriers should be allowed to recover

number portability costs through a charge per telephone number assessed on all end-users in areas where number portability is available.

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August 16, 1996

CERTIFICATE OF SERVICE

I Jody B. Burton, do hereby certify that copies of the foregoing "Comments of the General Services Administration" were served this 16th day of August, 1996, by hand delivery or postage paid to the following parties:

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